

This letter discusses the effect of 12 USC 1768 upon taxation of Federal credit unions under the Gas Revenue Tax Act, 35 ILCS 615/1 *et seq.*, the Telecommunications Excise Tax Act, 35 ILCS 630/1 *et. seq.*, and the Electricity Excise Tax Law, 35 ILCS 640/2-1 *et. seq.* (This is a GIL).

March 17, 2000

Dear Xxxxx:

This letter is in response to your letter dated March 2, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

We are a consulting company who work extensively with federal credit unions throughout the country in reviewing their utility and phone bills for tax errors and overcharges. In reviewing the bills for an Illinois credit union, we find they are being charged State Utility Tax on their bills.

The Federal Credit Union Act exempts federal credit unions from federal, state, and local tax. The specific section is Section 122 of the Federal Credit Union Act, 12 U.S.C. 1768. I'm attaching a copy for your reference. The State of Illinois Department of Revenue has determined that federal credit unions are exempt from the Sales Tax.

The U.S. Code confers upon federal credit unions broad immunity from federal, state, and local taxation. Therefore, we believe they should be exempt from the State Utility Tax.

Please review this matter and let me know your decision. In order to exempt them from the tax, we need a letter from your office to provide to the utility company stating that they are exempt. Assuming that you concur, please fax me a copy and mail the original letter to me verifying that position.

Thank you for your assistance.

Section 1768 of Title 12 of the United States Code, 12 U.S.C. 1768, provides:

The Federal credit unions organized hereunder, their property, their franchises, capital, reserves, surpluses, and other funds, and their income shall be exempt from all taxation now or hereafter imposed by the United States or by any State, Territorial, or local taxing authority; except that any real property and any tangible personal property of such Federal credit unions shall be subject to Federal, State, Territorial, and local

taxation to the same extent as other similar property is taxed. Nothing herein contained shall prevent holdings in any Federal credit union organized hereunder from being included in the valuation of the personal property of the owners or holders thereof in assessing taxes imposed by authority of the State or political subdivision thereof in which the Federal credit union is located; but the duty or burden of collecting or enforcing the payment of such a tax shall not be imposed upon any such Federal credit union and the tax shall not exceed the rate of taxes imposed upon holdings in domestic credit unions.

You have not indicated which taxes you are inquiring about. However, for purposes of this letter, we will discuss the Gas Revenue Tax, the Electricity Excise Tax, and the Telecommunications Excise Tax.

The Gas Revenue Tax Act, set forth at 35 ILCS 615/1 *et seq.*, imposes a tax upon persons engaged in the business of distributing, supplying, furnishing or selling gas to persons for use or consumption. As you will note, the tax is not imposed upon consumers of gas. However, section 9-222 of the Public Utilities Act, 220 ILCS 5/9-222 provides that when a tax is imposed upon a public utility pursuant to the Gas Revenue Tax Act, the utility may charge its customer an additional charge equal to the total amount of such tax. Therefore, while tax is not imposed upon Federal credit unions pursuant to the Gas Revenue Tax Act, they are subject to the additional charge that a public utility may add to its charges. Section 1768 does not prohibit this.

The Telecommunications Excise Tax Act, set forth at 35 ILCS 630/1 *et seq.*, imposes a tax upon consumers of telecommunications. The Electricity Excise Tax Law, set forth at 35 ILCS 640/2-1 *et seq.*, imposes a tax upon consumers of electricity. Since these taxes are imposed upon consumers, it is our position that Federal credit unions would be exempt from these taxes pursuant to Section 1768, above.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Martha P. Mote  
Associate Counsel

MPM:msk  
Enc.